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PUNJAB VIDHAN SABHA SECRETARIAT

NOTIFICATION

The 23rd March, 2018

No. 6-PLA-2018/10.- The Punjab Transparency and Accountability in Delivery of Public Service Bill, 2018 is hereby published for general information under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly):-

Bill No.6-PLA-2018

THE PUNJAB TRANSPARENCY AND ACCOUNTABILITY IN DELIVERY OF PUBLIC SERVICE BILL, 2018

A

BILL

to provide for transparency and accountability in the delivery of services to the eligible person of the State of Punjab within the stipulated time limits and for matters connected therewith and incidental thereto.

BE it enacted by the Legislature of the State of Punjab in the Sixty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Punjab Transparency and Accountability in Delivery of Public Service Act, 2018. Short title and commencement.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

Definitions.

2. In this Act, unless the context otherwise requires, -

- (a) “Accountability” means the answerability of the public servant for various acts of omission and commission in the delivery of public service;
- (b) “Appellant” means a person who has filed an appeal or revision under this Act;
- (c) “Appellate Authority” means an officer, notified as such under section 3;
- (d) “Chief Commissioner” means the Chief Commissioner appointed under section 12;
- (e) “Commission” means the Punjab Transparency and Accountability Commission, constituted under section 12;
- (f) “Department” means the concerned department of the Government of Punjab;
- (g) “Designated Officer” means an officer or official notified as such under section 3 for providing public service to the eligible person;
- (h) “electronic mode” means any method, process or application to deliver any service electronically including, but not limited to Government to Government, Government to citizen or Government to business transactions, data interchange and other digital supply transactions whether conducted by e-mail, mobile devices, social media, cloud computing, document management, voice or data transmission or otherwise;
- (i) “electronic service delivery” means the delivery of public service through electronic mode;
- (j) “eligible person” means a person who is eligible for obtaining a public service notified under section 3;
- (k) “Government” means the Government of Punjab in the Department of Governance Reforms and Public Grievances;
- (l) “prescribed” means prescribed by rules made under this Act;
- (m) “public authority” means,—
 - (a) any department or authority of the Government;

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- (b) any organization or authority or body or corporation or institution or a local authority, established or constituted-
 - (i) by or under the Constitution of India, in the State;
 - (ii) by or under any law made by the Parliament or the Legislature of the State of Punjab;
 - (iii) by notification issued by the Government of Punjab;
 - (c) and includes, an institution, a co-operative society, a Government Company or an authority in which the State Government has substantial control;
 - (n) “public service” includes the service notified from time to time under section 3, whether electronic or other service;
 - (o) “section” means section of this Act;
 - (p) “stipulated time limit” means the maximum time as specified by the Government to provide the public service by the Designated Officer or to decide the appeal by the Appellate Authority; and
 - (q) “transparency” means the duty of a public servant to act in an accountable and transparent manner.
3. (1) The Government may, by notification, from time to time, specify-
- (a) the public services to which this Act shall apply;
 - (b) the Designated Officer and the Appellate Authority for each public service;
 - (c) the time limit for delivery of every public service;
 - (d) fee for every service.
- (2) The public authority shall be responsible for providing all services in a unified service delivery mode as far as possible.
4. Every Designated Officer and his subordinates shall provide the public service, as notified by the Government from time to time, to the eligible person, within the stipulated time in a transparent manner:
- Right to obtain service (including electronic service delivery) within stipulated time limit.
- Provided that the stipulated time limit may be extended to such extent, as may be notified by the Government during the period of elections, natural calamities or such other eventualities.

Electronic service
delivery to
enhance
transparency and
accountability.

5. (1) The public authority shall, subject to the legal, technical and financial feasibility, deliver all services by electronic mode within a period of three years from the date of commencement of this Act, except such services,—

- (a) which cannot be delivered electronically;
- (b) which can be delivered electronically but the public authority, notifies not to deliver such services electronically for the reasons to be specified in such notification:

Provided that the public authority shall consult the Government before notifying any services under clause (b):

Provided further that such period of three years may be extended by the Government for a further period not exceeding two years on the recommendations of the public authority.

(2) Every public authority shall publish within one hundred and eighty days from the commencement of this Act, the list of public services, to be delivered by it in electronic mode.

(3) The public authority shall, after the publication of the list under sub-section (2), review the same and notify on the 1st day of January of every year—

- (a) the public service which shall be made available through electronic mode and otherwise;
- (b) the manner of such services as may be prescribed; and
- (c) such other information as may be prescribed.

(4) The public authority while reviewing the list under sub-section (3), by notification, omit or add any public service in such list:

Provided that any omission in the list shall be subject to the approval of the Government.

(5) The Government may, from time to time, notify electronic governance standards, in such manner as may be prescribed, being not inconsistent with electronic governance standards notified by the Central Government, as may be necessary for ensuring inter-operability, integration, harmonisation, availability through multiple channels and security of electronic service and data.

6. (1) The stipulated time limit shall start from the date when the required application, complete in all respects, for a public service is submitted to the Designated Officer or to a person authorized to receive the application in such manner as may be prescribed. The receipt of each application shall be duly acknowledged by the Designated Officer or the person authorized to receive the application.

Providing public service within the stipulated time limit.

(2) The Designated Officer, on receipt of the application under subsection (1) shall, within the stipulated time either directly or through an officer duly authorized by him provide such service or reject the application and in case of rejection of the application, shall record the reasons in writing and intimate the same to the applicant.

(3) Every Designated Officer shall maintain detailed records of services applied for in a format, preferably in electronic format, as may be prescribed.

7. (1) The provisions of this Act shall be deemed to be a part of the service conditions of the Designated Officer, any person subordinate to him who is authorized to provide the public service and the Appellate Authority.

Developing culture to deliver public service within stipulated time limit and Benchmarks of performance levels.

(2) Every public authority may take steps to reduce the demand from an eligible person to submit various certificates, documents, affidavits etc. for obtaining public service and shall endeavour to obtain such information and documents directly from the departments or public authority concerned.

(3) The Commission shall devise the mechanism for evaluation and benchmarking the performance of the public authority in delivery of public service in the manner prescribed.

(4) All the Designated Officers and the Appellate Authority shall undergo periodic training to enhance and ensure time bound delivery of the public service in a transparent manner.

8. (1) Any eligible person, whose application for obtaining service is rejected or who is not provided the public service within the stipulated time limit, may file an appeal before the Appellate Authority, in the manner prescribed, within thirty days from the date of rejection or the expiry of the stipulated time limit, as the case may be:

Right of appeal.

Provided that the Appellate Authority may, in exceptional cases, admit the appeal even after the expiry of the period of thirty days, subject to the maximum period of ninety days, if it is satisfied that the appellant was prevented by sufficient reason from filing the appeal in time.

(2) The Appellate Authority may direct the Designated Officer to provide the service to the eligible person within such period as it may specify in its order but which shall not ordinarily exceed the stipulated time, or it may reject the appeal after recording the reasons in writing for such rejection. The Appellate Authority shall decide the appeal within a period of thirty days from the date of filing of the appeal:

Provided that, before deciding the appeal, the Appellate Authority shall give an opportunity of being heard to the Appellant as well as to the Designated Officer or any of his subordinate duly authorized for this purpose.

Powers vested
with Appellate
Authority.

9. (1) The Appellate Authority, while deciding an appeal under the provisions of this Act, shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely :—

- (a) enforcing the attendance of persons, compelling them to give oral or written evidence on oath and producing documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public records or copies thereof from any court or public authority;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

(2) The Appellate Authority shall have the powers to take suo-moto notice of failure to deliver service in accordance with the provisions of this Act in public interest, and to pass such order as the facts and circumstances of the case may warrant:

Provided that before passing an adverse order, a reasonable opportunity of being heard, shall be given to the eligible person and/or the Designated Officer.

Default or delay
on the part of the
Designated
Officer or his
subordinate
officer/Officials.

10. (1) If the Appellate Authority is of the opinion that the Designated Officer and/or any other Official involved in the process of providing such service has/have failed to provide the public service without sufficient and reasonable cause, it shall impose a penalty on the said officer or Official, which shall not be less than rupees five hundred, but which may extend upto rupees five thousand, or of such amount, as may be revised by the Government, from time to time, by notification in the Official Gazette.

(2) If the Appellate Authority is of the opinion that the Designated Officer and/or any other Official involved in the process of providing public service has/have caused undue delay in providing the service, it may impose a penalty on the said officer or official at the rate as may be notified by the Government from time to time:

Provided that the Designated Officer and/or any other Official involved in the process of providing public service shall be given a reasonable opportunity of being heard before any penalty is imposed on him/them by the Appellate Authority.

(3) The Appellate Authority may, if it is satisfied that the Designated Officer and/or any other Official involved in the process of providing public service has/have repeatedly failed to discharge the duties assigned under this Act without sufficient and reasonable cause, recommend disciplinary action against the defaulters under the service rules applicable to them in addition to the penalty imposed under the preceding sub-sections.

11. (1) The penalty imposed on the Designated Officer and/or any other Official involved in the process of providing such service for the delay or default, shall be recovered from the salary of the Designated Officer or his/her subordinate in the proportion, as ordered by the Appellate Authority, as the case may be. Penalty to pay compensatory cost to appellant.

(2) The Appellate Authority may, by an order, give such amount as compensation to the appellant out of the amount of penalty imposed under section 10, as may be specified by it, which shall not exceed the total amount of penalty so imposed.

12. (1) The Government shall constitute a Commission for the purposes of this Act, by issuing a notification in the Official Gazette: Constitution of the Commission.

Provided that till the time the Commission is constituted, the Government may, by notification in the Official Gazette, entrust the powers and functions of the Commission to the Administrative Secretary in-charge of the Department of Governance Reforms and Public Grievances.

(2) The Commission shall be a one man Commission headed by the Chief Commissioner.

(3) Any retired or serving officer of the rank of Additional Chief Secretary or Financial Commissioner to the Government of Punjab or Additional Secretary to the Government of India or above may be appointed by the

Government as the Chief Commissioner to perform the functions and exercise the powers of the Commission under this Act.

(4) The headquarter of the Commission shall be at Chandigarh or at such other place, as may be notified by the Government from time to time.

(5) The Government shall provide a Secretary to the Commission, who shall be a serving officer of the State Government, and such other staff as may be necessary to enable the Commission to perform its functions and discharge its duties efficiently under this Act.

Terms of office
and conditions of
service of the
Chief
Commissioner.

13. (1) The Chief Commissioner shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier and shall not be entitled for re-appointment.

(2) The Chief Commissioner shall, before he enters upon his office, make and subscribe to, before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the Schedule.

(3) The salaries and allowances payable to and other terms and conditions of service of the Chief Commissioner shall be the same as that of the State Chief Information Commissioner as laid down in sub-section (5) of section 16 of the Right to Information Act, 2005.

(4) The Chief Commissioner may, by notice in writing under his hand addressed to the Governor, resign from his office:

Provided that the Chief Commissioner shall, unless he is permitted by the Government to relinquish his office sooner, continue to hold office until the expiry of one month from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office, or until the expiry of his term of office, whichever is earlier.

Removal and
suspension of the
Chief
Commissioner
from office.

14. (1) The Chief Commissioner shall not be removed from his office except by an order by the Government on the ground of proven misbehavior or incapability after an inquiry as prescribed by the Government in which the Chief Commissioner had been informed of the charges against him and given a reasonable opportunity of being heard in respect of such charges.

(2) The Government may, by rules, regulate the procedure for the inquiry of misbehavior or incapability of the Chief Commissioner referred to in sub-section (1).

(3) Notwithstanding anything contained in sub-section (2), the

Government may, by order, remove the Chief Commissioner from his office, if he —

- (a) is, or at any time has been, adjudged an insolvent; or
- (b) has engaged at any time, during his term of office, in any paid employment; or
- (c) has been convicted of an offence which, in the opinion of the Government, involves moral turpitude; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as Chief Commissioner; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest; or
- (f) has become physically or mentally incapable of acting as Chief Commissioner.

15. (1) The Commission shall monitor the implementation of this Act on a regular basis.

Powers and
functions of the
Commission.

(2) Without prejudice to the provisions contained in sub-section (1), the functions of the Commission shall, amongst other things, include the following, namely:—

- (a) monitoring the publication of services to be delivered and adherence to the time schedule, manner of delivery and quality of such services notified by the Government;
- (b) advise for redressal of the public grievances with regard to the non-availability of public service in electronic mode and/or any deficiency in electronic service delivery;
- (c) recommend changes in the procedure for delivery of public service which shall make the delivery more transparent, efficient and friendly:

Provided that, before making such a recommendation, the Commission shall consult the Administrative Secretary of the Department which is to deliver the public service;

- (d) ask Government to seek feedback/response from the citizens about their experience in availing the services from the public authority and review the same;
- (e) hear and decide the revision with regard to default and/or

delay in delivery of public service filed before it, as provided for in section 16;

(f) take on its own motion notice of failure to deliver public service in accordance with this Act and refer such cases to public authority for disposal as it may deem appropriate; and

(g) performing any other function as may be prescribed.

Revision and
suo-moto
powers.

16. (1) Any eligible person or Designated Officer, aggrieved by any order of the Appellate Authority, may make an application for revision of the said order to the Commission in this respect within a period of sixty days from the date of such order, which shall be disposed of in the manner as may be prescribed:

Provided that the Commission may entertain the application after the expiry of the said period of sixty days, if it is satisfied that the application could not be submitted in time for a reasonable cause.

(2) The Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

- (a) enforcing the attendance of persons, compelling them to give oral or written evidence on oath and producing documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public records or copies thereof from any court or public authority;
- (e) issuing summons for examination of witnesses or documents;
- (f) any other matter which may be prescribed.

(3) While deciding the revision petition or otherwise, the Commission may, impose a penalty up to rupees ten thousand per case on the Designated Officer or any other officer or official involved in the process of providing the public service under this Act, if the Commission is of the opinion that the person concerned has failed without sufficient cause in due discharge of the duty cast upon him:

Provided that the person concerned shall be given a reasonable opportunity

of being heard before any penalty is imposed upon him:

Provided further that the Commission, by an order, may give such amount as compensation to the Appellant out of the amount of penalty imposed, as may be specified by it, which shall not exceed the total amount of penalty so imposed.

(4) The Commission, wherever it deems fit, shall have the power to recommend departmental inquiry against any Designated Officer or Appellate Authority, who have repeatedly failed in due discharge of functions cast upon them under this Act.

17. The Government shall consider the recommendations made by the Commission under section 16 and send information to the Commission of the action taken on such recommendations, within a period of sixty days or such time thereafter, as may be decided in consultation with the Commission.

Action by
Government on
recommendations of
Commission.

18. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything done or intended to be done in good faith under this Act or any rules made thereunder.

Protection of
action taken in
good faith.

(2) No act done or proceedings taken under this Act by the Commission shall be invalid merely by reason of defect or irregularity in its constitution.

19. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter the cognizance of which can be taken and disposed of by any authority empowered by this Act or the rules or regulations made thereunder.

Bar of
jurisdiction of
courts.

20. (1) The Government may, by notification, in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make
rules.

(2) Every rule made by the Government under this Act, shall be laid, as soon as may be after it is made, before the House of the State Legislature, while it is in session, for a total period of ten days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rules or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be. However, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove
difficulties.

21. If any difficulty arises, in giving effect to the provisions of this Act, the Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

Repeal and
saving.

22. (1) The Punjab Right to Service Act, 2011 (Punjab Act No. 24 of 2011), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Act, referred to in sub-section (1), shall be deemed to have been done or taken under the provisions of this Act.

SCHEDULE

[See section 13(2)]

Form of Oath or Affirmation to be made by the Chief Commissioner

"I.....having been appointed Chief Commissioner that I will
swear in the name bear true faith and allegiance to the Constitution of
of God solemnly India as by law established, that I will uphold the
affirm. sovereignty and integrity of India, that I will duly and
faithfully and to the best of my ability, knowledge and judgment perform the
duties of my office without fear or favour, affection or ill-will and that I will
uphold the Constitution of India and the laws made thereunder."

STATEMENT OF OBJECTS AND REASONS

State Government intends to provide all the service to the citizens through online mode in a transparent, accountable and time-bound manner with effective use of digital technology. This will help in ensuring good governance characterized by efficiency, effectiveness and transparency. "The Punjab Transparency and Accountability in delivery of Public Service Bill, 2018" is proposed to be enacted to realize this object. The new legislation will replace the existing "Right to Service Act, 2011".

AMARINDER SINGH,
Chief Minister, Punjab.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 20 of " the Punjab Transparency and Accountability in Delivery of Public Service Bill, 2018" empowers to the State Government to make rules to carry out the purpose of this Act. The powers sought are necessary for the proper implementation of the provisions of the Act and are normal in nature.

Chandigarh
The 23rd March, 2018

SHASHI LAKHANPAL MISHRA
Secretary.